

Rick Hernandez
Hernandez Law Offices, LLC
440 S. 6th St. P.O. Box 1039
Sunnyside, WA 98944
(509) 837-3184

Attorney for Joseph Leonard Roy

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	}	
	}	
Plaintiff,	}	No. 1:21-CR-2006-SAB
	}	
vs.	}	Defendant's Review of Presentence
	}	
	}	Investigation Report and Sentencing
JOSEPH LEONARD ROY,	}	Memorandum
	}	
	}	
Defendant.	}	
	}	

Defendant, Joseph Leonard Roy, by and through his attorney Ricardo Hernandez, submits the following Review of Presentence Investigation Report.

I. PRESENTENCE INVESTIGATION REPORT:

A. Offense Level and Adjustments:

Pursuant to the Presentence Investigation Report (PSIR), the Defendant's base offense level is a 40, criminal history category II, with a guideline range of 324-405 months.

ECF 96, ¶ 208. The defendant agrees with the guideline calculations in the PSIR. Further, the defendant does not have any objections to the PSIR.

1 B. Departures:

2 The plea agreement is pursuant to Fed.R.Crim.P. 11 (c)(1)(C) to a
3 range of 168 to 252 months. ECF 94, ¶ 6. This range represents a
4 variance from the guideline range as

5 calculated in the PSIR, ECF 96 ¶ 207.
6

7
8 **SENTENCING FACTORS UNDER 18 U.S.C. § 3553 (a)**
9

10 As this court knows, the Sentencing Guidelines are now advisory,
11 rather than mandatory. United States v. Booker, 125 S.Ct. 738, 756-
12 57 (2005). While the Court must consider guideline ranges, the Court
13 is permitted to tailor the sentence in light of other statutory concerns
14 as well. 18 U.S.C. § 3553 (a)(4).
15

16 The purpose of the Sentencing Reform Act is to...reflect the
17 seriousness of the offense, promote respect for the law, provide just
18 punishment, afford adequate deterrence, [and] protect the public.
19 Booker, at 765; 18 U.S.C. § 3553(a)(2). A district court must not
20 accord more weight to the Guidelines than to other factors under §
21 3553(a).
22
23
24

25
26 (1) The nature and circumstances of the offense and the history and
27 characteristics of the defendant
28

1 The nature and circumstances of the offense are serious as Mr. Roy
2 has pled guilty to two counts of Abusive Sexual Contact in violation
3 of 18 U.S.C. §1153 and 18 U.S.C. §§ 2244(a)(5) and 2246(3), which
4 are by law lesser-included offenses of Aggravated Sexual Abuse
5 committed in violation of 18 U.S.C. §1153 and 18 U.S.C. §2241(c).
6

7 Mr. Roy is 59 years of age and was raised in Wapato, WA., and lived
8 in Wapato until approximately the year 2000. He then moved to
9 Tacoma, WA., where he lived for two years. Mr. Roy then moved to
10 the Yakima Valley where he continue to resides.
11

12 Mr. Roy has had a very troublesome life since he was a child. He
13 endured severe abuse as a child. Both of his parents were alcoholics.
14 He experienced cruel physical punishment from his father that
15 included whipping him with a belt, forcing him to stand in a corner for
16 hours and he fell asleep his Father would kick him with his boots. He
17 would get kicked around “like dogs.” He was also teased and bullied
18 by his peers. He lost and eye at the age of five, and he was identified
19 as a Special Education student in primary school.
20

21 When Mr. Roy was approximately 10 years of age, his Father left the
22 home and was essentially unsupervised as his Mother was a severe
23 alcoholic. When he was approximately 12 years of age, Mr. Roy was
24 forced to live with his Grandmother for 1 year due to his Mother’s
25
26
27
28

1 alcoholism. Unfortunately, Mr. Roy began to abuse alcohol himself at
2 the age of 12 which led to him being a lifetime alcoholic. He also
3 began a lifetime addiction to marijuana. The abuse, lack of
4 supervision, and addictions led to legal troubles and serious mental
5 health issues that would also plagued him for the majority of his life.
6

7 Mr. Roy recently underwent a forensic mental health exam by Dr.
8 Kathy Lanthorn-Cardenas, CFMHE, EdD, LMHC. See the attached
9 Forensic Mental Health Evaluation. Dr. Lanthorn-Cardenas
10 diagnosed Mr. Roy with Major Depression, Moderate, with Anxious
11 Distress, and Alcohol Use Disorder, Severe, in Sustained Remission
12 and Borderline Personality Disorder.
13

14 Dr. Lanthorn-Cardenas indicates that Mr. Roy's untreated mental
15 health condition and history of substance use contributed to his
16 criminal behavior by impairing his judgment, reasoning, impulsive
17 control, decision-making and emotional regulation. Dr. Lanthorn-
18 Cardenas describes Mr. Roy as psychologically unsophisticated,
19 functionally illiterate, and prone to suicidal ideation. She indicates
20 that his history of suicide attempts and self-harming behavior make
21 him vulnerable to future suicidal behavior. She indicates that
22 counseling services cannot rely upon written materials due to Mr.
23 Roy's cognitive deficits. Finally, Dr. Lanthorn-Cardenas indicates
24
25
26
27
28

1 that Mr. Roy may be a good candidate for Dialectical Behavioral
2 Therapy, a treatment modality intended for individuals with
3 Borderline Personality Disorder.
4

5
6 (2). Need for the sentence to reflect the seriousness of the offense, to
7 promote respect for the law, and to provide just punishment for the offense.
8

9
10 By accepting responsibility, the defendant has shown respect for the
11 law. Any sentence that this court imposes is surely adequate to reflect
12 the seriousness of the offense, to promote greater respect for the law,
13 and to provide just punishment for the offense.
14

15 (3). Need for the sentence to afford adequate deterrence to criminal
16 conduct.
17

18 Given the overall circumstances of the offense and the defendant's
19 personal history, we believe that a sentence of 168-months will afford
20 adequate deterrence to further criminal conduct.
21

22 (4). Need to protect the public from further crimes of the defendant.

23 Given the length of the recommended sentence and the recommended
24 length of supervised release, we believe that the public will be
25 protected from further crimes of the defendant.
26
27
28

1 (5). Need for sentence to provide the defendant with needed
2 educational or vocational training, medical care, or other correctional
3 treatment in the most effective manner.
4

5 The defendant will avail himself of any educational or vocational
6 training, and/or counseling that is available to him.
7

8 (6). The kinds of sentences available.

9 The court may impose any appropriate prison sentence.

10 (7). The advisory guideline range.

11 The advisory guideline range according to U.S. Probation is 324-405
12 months.
13

14 CONCLUSION

15 In consideration of the 18 U.S.C. 3553 (a) factors, the defendant
16 respectfully requests that the court impose a sentence of 168-months
17 followed by a term of supervised released.
18
19

20
21 DATED this 25th day of November 2023.
22

23
24 Respectfully Submitted,
25

26 s/ Ricardo Hernandez
27 Ricardo Hernandez
28

CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Assistant United States Attorney, Michael Davis Murphy

s/ Ricardo Hernandez
Ricardo Hernandez